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Written Testimony House Bill 151 – Repealing LEOBR

I have the pleasure of practicing law in the Maryland Office of the Public Defender. I work specifically as the Director of the Special Litigation in Baltimore City's Felony Trial Division, targeting police misconduct and discovery abuses. I started in Baltimore in 2013, when there was not yet a practice of open disclosure of Internal Affairs Division (IAD) files. Through years of relentless litigation, OPD has gained access to hundreds, if not thousands of files that had never previously been disclosed. And we can assure you that holding these records secret is a large part of what allows corruption to flourish. Maryland must remove these statutory roadblocks, like the Law Enforcement Officers' Bill of Rights (LEOBR), that encourage the police and the prosecution to keep IAD records secret and encourage the blue code of silence, as it relates to discipline.

The history of LEOBR in Maryland is that it was enacted in the 1970s because police officers were alleged to perform a "different type of work." And if you look at modern case law interpreting LEOBR, it also says that police officers are "different." And that's correct, they are different. But it is precisely the way in which they are different that informs the decision to repeal their antiquated bill of rights in favor of transparency. First, unlike other professions, police officers carry deadly weapons. Second, in everything that they do, and in every aspect of their work, their honesty and integrity is an integral part of their job. And third, they are active participants in criminal prosecutions. Whether they are swearing out a police report, taking the witness stand, or providing an affidavit in a search and seizure warrant, their honesty and integrity is always at issue. And when they do violate rules and laws related to honesty and integrity, and they are disciplined for it, rules regarding witnesses requires those documents be disclosed. And yet in nearly every case in Maryland, records regarding IAD investigations and discipline go undisclosed, in large part, because of LEOBR. Police officers are not entitled to super witness status, and the LEOBR helps to elevate them just so.

It is time to repeal LEOBR because law enforcement officers do not deserve more protections than any other profession in the state of Maryland. They are not more essential or more deserving than surgeons, teachers, engineers, or judges. They are an important part of society, and they should absolutely be subject to the same transparency as everyone else, even and especially when it comes to discipline.